

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION	:	Master Docket: Misc. No. 21-mc-1230-JFC
	:	
	:	MDL No. 3014
	:	
	:	SHORT FORM COMPLAINT FOR
This Document Relates to:	:	PERSONAL INJURIES, DAMAGES,
	:	AND DEMAND FOR JURY TRIAL

DIRECT FILE PURSUANT TO PTO 28

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the “Master Long Form Complaint”). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff(s) further allege(s) as follows:

I. DEFENDANTS

1. Plaintiff(s) name(s) the following Defendants in this action:

___ Koninklijke Philips N.V.

___ Philips North America LLC.

___ Philips RS North America LLC.

___ Philips Holding USA Inc.

___ Philips RS North America Holding Corporation.

___ Polymer Technologies, Inc.

___ Polymer Molded Products LLC.

II. PLAINTIFF(S)

2. Name of Plaintiff(s):

3. Name of spouse of Plaintiff (if loss of consortium claim is being made):

4. Name and capacity (*i.e.*, executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:

5. State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death):

III. DESIGNATED FORUM

6. Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing:

IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

<i>E30 (Emergency Use Authorization)</i>	<i>Dorma 500</i>
<i>DreamStation ASV</i>	<i>REMstar SE Auto</i>
<i>DreamStation ST, AVAPS</i>	<i>Trilogy 100</i>
<i>SystemOne ASV4</i>	<i>Trilogy 200</i>
<i>C-Series ASV</i>	<i>Garbin Plus, Aeris, LifeVent</i>
<i>C-Series S/T and AVAPS</i>	<i>A-Series BiPAP Hybrid A30 (not marketed in U.S.)</i>
<i>OmniLab Advanced +</i>	<i>A-Series BiPAP V30 Auto</i>
<i>SystemOne (Q-Series)</i>	<i>A-Series BiPAP A40</i>
<i>DreamStation</i>	<i>A-Series BiPAP A30</i>
<i>DreamStation Go</i>	<i>Other Philips Respironics Device; if other, identify the model:</i>
<i>Dorma 400</i>	

V. INJURIES

8. Plaintiff alleges the following physical injuries as a result of using a Recalled Device together with the attendant symptoms and consequences associated therewith:

COPD (new or worsening)

Asthma (new or worsening)

Pulmonary Fibrosis

Other Pulmonary Damage/Inflammatory Response

Cancer _____ (specify cancer)

Kidney Damage

Liver Damage

Heart Damage

Death

Other (specify)

VI. CAUSES OF ACTION/DAMAGES

9. As to Koninklijke Philips N.V., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ___ Count I: Negligence
- ___ Count II: Strict Liability: Design Defect
- ___ Count III: Negligent Design
- ___ Count IV: Strict Liability: Failure to Warn
- ___ Count V: Negligent Failure to Warn
- ___ Count VI: Negligent Recall
- ___ Count VII: Battery
- ___ Count VIII: Strict Liability: Manufacturing Defect
- ___ Count IX: Negligent Manufacturing
- ___ Count X: Breach of Express Warranty
- ___ Count XI: Breach of the Implied Warranty of Merchantability
- ___ Count XII: Breach of the Implied Warranty of Usability
- ___ Count XIII: Fraud
- ___ Count XIV: Negligent Misrepresentation

- ___ Count XV: Negligence Per Se
 - ___ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
 - ___ Count XVII: Unjust Enrichment
 - ___ Count XVIII: Loss of Consortium
 - ___ Count XIX: Survivorship and Wrongful Death
 - ___ Count XX: Medical Monitoring
 - ___ Count XXI: Punitive Damages
 - ___ Count XXII: Other [specify below]
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10. As to Philips North America LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ___ Count I: Negligence
- ___ Count II: Strict Liability: Design Defect
- ___ Count III: Negligent Design
- ___ Count IV: Strict Liability: Failure to Warn
- ___ Count V: Negligent Failure to Warn
- ___ Count VI: Negligent Recall
- ___ Count VII: Battery
- ___ Count VIII: Strict Liability: Manufacturing Defect
- ___ Count IX: Negligent Manufacturing

- ___ Count X: Breach of Express Warranty
- ___ Count XI: Breach of the Implied Warranty of Merchantability
- ___ Count XII: Breach of the Implied Warranty of Usability
- ___ Count XIII: Fraud
- ___ Count XIV: Negligent Misrepresentation
- ___ Count XV: Negligence Per Se
- ___ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- ___ Count XVII: Unjust Enrichment
- ___ Count XVIII: Loss of Consortium
- ___ Count XIX: Survivorship and Wrongful Death
- ___ Count XX: Medical Monitoring
- ___ Count XXI: Punitive Damages
- ___ Count XXII: Other [specify below]

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11. As to Philips RS North America LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ___ Count I: Negligence
- ___ Count II: Strict Liability: Design Defect
- ___ Count III: Negligent Design
- ___ Count IV: Strict Liability: Failure to Warn

- ___ Count V: Negligent Failure to Warn
 - ___ Count VI: Negligent Recall
 - ___ Count VII: Battery
 - ___ Count VIII: Strict Liability: Manufacturing Defect
 - ___ Count IX: Negligent Manufacturing
 - ___ Count X: Breach of Express Warranty
 - ___ Count XI: Breach of the Implied Warranty of Merchantability
 - ___ Count XII: Breach of the Implied Warranty of Usability
 - ___ Count XIII: Fraud
 - ___ Count XIV: Negligent Misrepresentation
 - ___ Count XV: Negligence Per Se
 - ___ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
 - ___ Count XVII: Unjust Enrichment
 - ___ Count XVIII: Loss of Consortium
 - ___ Count XIX: Survivorship and Wrongful Death
 - ___ Count XX: Medical Monitoring
 - ___ Count XXI: Punitive Damages
 - ___ Count XXII: Other [specify below]
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12. As to Philips Holding USA Inc., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ___ Count I: Negligence
- ___ Count II: Strict Liability: Design Defect
- ___ Count III: Negligent Design
- ___ Count IV: Strict Liability: Failure to Warn
- ___ Count V: Negligent Failure to Warn
- ___ Count VI: Negligent Recall
- ___ Count VII: Battery
- ___ Count VIII: Strict Liability: Manufacturing Defect
- ___ Count IX: Negligent Manufacturing
- ___ Count X: Breach of Express Warranty
- ___ Count XI: Breach of the Implied Warranty of Merchantability
- ___ Count XII: Breach of the Implied Warranty of Usability
- ___ Count XIII: Fraud
- ___ Count XIV: Negligent Misrepresentation
- ___ Count XV: Negligence Per Se
- ___ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- ___ Count XVII: Unjust Enrichment
- ___ Count XVIII: Loss of Consortium
- ___ Count XIX: Survivorship and Wrongful Death
- ___ Count XX: Medical Monitoring

___ Count XXI: Punitive Damages

___ Count XXII: Other [specify below]

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13. As to Philips RS North America Holding Corporation, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

___ Count I: Negligence

___ Count II: Strict Liability: Design Defect

___ Count III: Negligent Design

___ Count IV: Strict Liability: Failure to Warn

___ Count V: Negligent Failure to Warn

___ Count VI: Negligent Recall

___ Count VII: Battery

___ Count VIII: Strict Liability: Manufacturing Defect

___ Count IX: Negligent Manufacturing

___ Count X: Breach of Express Warranty

___ Count XI: Breach of the Implied Warranty of Merchantability

___ Count XII: Breach of the Implied Warranty of Usability

___ Count XIII: Fraud

___ Count XIV: Negligent Misrepresentation

___ Count XV: Negligence Per Se

- ___ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
- ___ Count XVII: Unjust Enrichment
- ___ Count XVIII: Loss of Consortium
- ___ Count XIX: Survivorship and Wrongful Death
- ___ Count XX: Medical Monitoring
- ___ Count XXI: Punitive Damages
- ___ Count XXII: Other [specify below]

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14. As to Polymer Technologies, Inc., Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ___ Count I: Negligence
- ___ Count II: Strict Liability: Design Defect
- ___ Count III: Negligent Design
- ___ Count IV: Strict Liability: Failure to Warn
- ___ Count V: Negligent Failure to Warn
- ___ Count VIII: Strict Liability: Manufacturing Defect
- ___ Count IX: Negligent Manufacturing
- ___ Count XIII: Fraud
- ___ Count XIV: Negligent Misrepresentation
- ___ Count XVII: Unjust Enrichment

- ___ Count XVIII: Loss of Consortium
- ___ Count XIX: Survivorship and Wrongful Death
- ___ Count XX: Medical Monitoring
- ___ Count XXI: Punitive Damages
- ___ Count XXII: Other [specify below]

15. As to Polymer Molded Products LLC, Plaintiff(s) adopt(s) the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ___ Count I: Negligence
- ___ Count II: Strict Liability: Design Defect
- ___ Count III: Negligent Design
- ___ Count IV: Strict Liability: Failure to Warn
- ___ Count V: Negligent Failure to Warn
- ___ Count VIII: Strict Liability: Manufacturing Defect
- ___ Count IX: Negligent Manufacturing
- ___ Count XIII: Fraud
- ___ Count XIV: Negligent Misrepresentation
- ___ Count XVII: Unjust Enrichment
- ___ Count XVIII: Loss of Consortium
- ___ Count XIX: Survivorship and Wrongful Death
- ___ Count XX: Medical Monitoring

___ Count XXI: Punitive Damages

___ Count XXII: Other [specify below]

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16. If additional claims against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial are alleged above, the additional facts, if any, supporting these allegations must be pleaded. Plaintiff(s) assert(s) the following additional factual allegations against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial:

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17. Plaintiff(s) contend(s) that additional parties may be liable or responsible for Plaintiff(s)' damages alleged herein. Such additional parties, who will be hereafter referred to as Defendants, are as follows (must name each Defendant and its citizenship):
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18. Plaintiff(s) assert(s) the following additional claims and factual allegations against other Defendants named in Paragraph 16 above:

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: _____

/s/ Daniel R. Griffin